

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
No. 4:08-CV-151-D

LINDA YORK,	)	
	)	
Plaintiff,	)	
	)	
	)	
v.	)	<b>ORDER</b>
	)	
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

On June 29, 2009, Magistrate Judge Daniel issued a Memorandum and Recommendation (“M&R”) [D.E. 22]. In that M&R, Judge Daniel recommended that plaintiff’s motion for judgment on the pleadings be denied, that defendant’s motion for judgment on the pleadings be granted, and that defendant’s final decision denying the request for benefits be affirmed. On July 8, 2009, plaintiff filed objections to the M&R [D.E. 23]. On July 22, 2009, defendant filed a response to plaintiff’s objections [D.E. 25].

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (alteration in original) (emphasis removed) (quotation omitted). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Id. (quotation omitted).


The court has reviewed the M&R, the record, and plaintiff's objections. As for those portions of the M&R to which plaintiff made no objection, the court is satisfied that there is no clear error on the face of the record.

The court has reviewed de novo the portions of the M&R to which plaintiff objected. First, plaintiff contends that "[c]ontrary to what the government and Magistrate [Judge] reviews claim, there is a real difference between Ms. York's condition and what the ALJ found." Pl.'s Objs. to M&R 1. Plaintiff misunderstands the standard of review. See, e.g., 42 U.S.C. § 405(g); Sterling Smokeless Coal Co. v. Akers, 131 F.3d 438, 439–40 (4th Cir. 1997); Hays v. Sullivan, 907 F.2d 1453, 1456 (4th Cir. 1990). Judge Daniel properly analyzed the record and the governing law. See M&R 9–11. Thus, plaintiff's first objection is overruled.

Second, plaintiff argues that the ALJ erred in selecting the RFC. See Pl.'s Objs. to M&R 4. Judge Daniel correctly rejected this argument. See M&R 8–12. Thus, plaintiff's second objection is overruled.

Accordingly, the court adopts the M&R [D.E. 22]. Plaintiff's motion for judgment on the pleadings [D.E. 14] is DENIED, and defendant's motion for judgment on the pleadings [D.E. 16] is GRANTED. Defendant's final decision is AFFIRMED, and this action is DISMISSED. The Clerk is directed to close the case.

SO ORDERED. This 13 day of August 2009.

  
JAMES C. DEVER III  
United States District Judge